

**U.S. Environmental Protection Agency  
Region II  
290 Broadway  
New York, New York 10007**

DATE: 3/21/02

SUBJECT: New Jersey Water Quality Standards Revisions

FROM: PHONE FAX

Wayne Jackson, DEPP-CEPB 212-637-3807 212-637-3889

TO:

Tim Kubiak, USFWS 609-646-9310 609-646-0352

Number of Pages (including cover sheet): 6

Tim,

Attached is the March 1, 2002 cover letter from NJDEP to EPA. Also attached is a fact sheet that I put together which identifies the changes to the NJSWQS. This should help you in your review.

Wayne

**State of New Jersey**

Department of Environmental Protection

Environmental Planning and Science

PO Box 418

Trenton, New Jersey 08625-0418

(609) 292-1254

James E. McGreevey  
GovernorBradley M. Campbell  
Acting Commissioner

cc: CERP/Water  
Brieker  
Callahan

March 1, 2002

Kathleen C. Callahan, Director  
Division of Environmental Planning  
and Protection  
USEPA Region II  
290 Broadway, 26th Floor  
NY, NY 10007

Dear Ms. Callahan:

I am submitting New Jersey's revised Surface Water Quality Standards for your agency's review and approval. This regulation, which was adopted by the Department on December 18, 2001, reflects a long and comprehensive Stakeholder process with participation from many interested parties and agencies, including USEPA Region II. The submittal package consists of:

**December 18, 2000 New Jersey Register (NJR) notice of proposal to amend the Surface Water Quality Standards.** The proposed amendments addressed regulatory mixing zones, use classifications for specific waterbodies, ammonia criteria, regulation of arsenic at existing treatment plants (until the USEPA issues a final determination on appropriate arsenic concentrations to protect the consuming public), metal translators to convert from total recoverable metals to dissolved metals, New Jersey Quantitation Levels, revised antidegradation provisions (including implementation provisions), an alternate point of application for three pollutants, and a provision dealing with the impact of a use reclassification on existing discharges.

**January 22, 2002 NJR notice of adoption of amended Surface Water Quality Standards.** The proposed regulatory mixing zone, revised use classification for some waters, ammonia criteria and metal translators were adopted. Proposed amendments for antidegradation provisions, New Jersey Quantitation Levels, an alternate point of application for 3 pollutants, regulation of arsenic from existing discharges, and the provision that would have dealt with the impact of a use classification on existing discharges were not adopted. The adoption notice incorrectly listed the formulae for metals translators as having a term "In" instead of "ln". This error is being corrected by publication of a notice of Administrative Changes in the New Jersey Register.

**January 24, 2002 letter from Deputy Attorney General Daren Eppley** certifying that New Jersey's amended Surface Water Quality Standards were duly adopted pursuant to State law.

**January 2002 Surface Water Quality Standards regulation** reflecting changes resulting from the listed proposal and adoption.

The methods used and the analyses conducted in support of the revisions reflected in the Standards being submitted, are discussed in the rule proposal. In particular, the proposal package will provide your staff with the information necessary to approve the ammonia criteria and other adopted provisions.

NJ appreciates the support provided by the USEPA in its efforts to develop and adopt numerical criteria for ammonia, as well as the other provisions that were adopted. Especially helpful was the participation of Wayne Jackson, the USEPA Region II Surface Water Quality Standards coordinator. His participation in our stakeholder process and subsequent guidance as questions arose, was extremely valuable to the Department in its efforts to revise the Surface Water Quality Standards.

Please refer any questions concerning the Surface Water Quality Standards to Alfred Korndorfer, Bureau Chief, Bureau of Freshwater & Biological Monitoring, Division of Watershed Management at 609-292-0427

Sincerely,



Leslie J. McGeorge  
Assistant Commissioner

Enclosures

c: Mary T. Sheil, Director  
Narinder Ahuja, Director  
James Mumman, Administrator  
Alfred Korndorfer, Chief  
Brenda Jogan, Manager IV  
Steven Lubow, Environmental Scientist I

## NJDEP January 2002 Final SWQS

(March 2002)

I. Overall: The January 2002 final revisions to the NJSWQS included revisions to 12 of the 17 provisions included in NJDEP's December 18, 2000 proposal to revise the NJSWQS. Five were dropped from the final rule. The revisions to the antidegradation policy will be re-proposed later this year.

Overall, the State's proposal is very good, and addresses many of EPA's previously raised issues.

### II. Summary of Revised Provisions:

- N.J.A.C. 7:9B-1.4 - Definitions: NJDEP added or revised 5 definitions.
- N.J.A.C. 7:9B-1.5(a) - Statements of Policy: NJDEP added a provision stating its policy to restore, maintain and preserve all freshwaters as potential sources of potable water supplies. This proposed policy provides that all fresh surface waters should be protected as potential sources of public water supplies to provide adequate, clean potable water for the present and future.
- N.J.A.C. 7:9B-1.5(c)(2) - Design Flows: NJDEP will use the flow that is exceeded 75% of the time for the appropriate "period of reference" rather than the harmonic mean flow for toxic pollutants with a bioaccumulation/bioconcentration factor greater than 200 L/kg and for bromodichloromethane based upon a USGS recommendation.
- N.J.A.C. 7:9B-1.5(c)(6) - Metals Translators: NJDEP will use the conversion factors promulgated by EPA (60 Fed. Reg. 22229; May 4, 1995) as metal translators, unless a site-specific metal translator is developed through a site-specific water quality study or if a metal translator is developed as part of a study through the watershed process or through a TMDL process which undergoes EPA review and approval.
- N.J.A.C. 7:9B-1.5(g) - Nutrient Policies: NJDEP amended the nutrient policies to specify that nutrients will not be permitted in concentrations that cause: (1) abnormal diurnal fluctuations in dissolved oxygen or pH; or (2) changes to the composition of aquatic ecosystems, in addition to the existing conditions that are not allowed in freshwaters except due to natural conditions.
- N.J.A.C. 7:9B-1.5(h) - Regulatory Mixing Zones: NJDEP revised the existing mixing zone policies and their implementation procedures to clarify the scope of the policy and provide specificity to ensure uniform implementation.
- N.J.A.C. 7:9B-1.14(c)5 - Phosphorus Criteria: NJDEP amended the phosphorus criteria to acknowledge that criteria may be developed through the watershed process.
- N.J.A.C. 7:9B-1.14(c)8 - Total Dissolved Solids (TDS) Criteria: NJDEP deleted the portion of the current criteria for TDS specifying changes in TDS levels up to 133% shall

be deemed to be in compliance with the TDS criteria. NJDEP proposes to use toxicity tests to confirm whether there are any adverse effects.

- N.J.A.C. 7:9B-1.14(c)13vi- Ammonia Criteria: NJDEP adopted ammonia criteria which are specifically developed to protect the uses of the respective surface water classifications and are based on toxicity data on New Jersey-specific species.
- N.J.A.C. 7:9B-1.14(c)13xxxii- Aquatic Criteria for Lead: NJDEP adopted freshwater acute and chronic criteria for lead as non-hardness dependent values based on an analysis conducted by the Delaware River Basin Commission (DRBC). The criteria proposed for lead are also based on national species data as listed in the EPA 304(a) criteria document for lead and additional data approved by EPA.
- N.J.A.C. 7:9B-1.14(c)13xxxii- Human Health Criteria for PCBs: NJDEP adopted human health criteria for PCBs consistent with EPA's final rule entitled, Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance-- Revision of Polychlorinated Biphenyls (PCBs) Criteria; Final Rule, which was published in the Federal Register on November 9, 1999 (64 FR 61182).
- N.J.A.C. 7:9B-1.15 Surface water classifications for the waters of the State of New Jersey: NJDEP upgraded 9 classifications based on trout status. NJDEP also proposes to codify specific listings for three waterbodies, although the codification has no impact on the classification.

### III. Summary of Provisions not Included in the Final Rule:

- N.J.A.C. 7:9B-1.5(e)(5) - New Jersey Quantitation Levels (NJQLs): NJDEP proposed, but did not adopt, the use of NJQLs where NJPDES permit limits are below measurable levels. Although this provision is being proposed to provide for the NJQL concept, the use of NJQLs will only become effective once the Department adopts a separate rulemaking establishing the NJQLs at N.J.A.C. 7:18.
- N.J.A.C. 7:9B-1.5(e)(5) - Water Quality-Based Effluent Limitations for Arsenic: NJDEP proposed, but did not adopt, a provision that where a WQBEL is imposed for arsenic, the limit may account for arsenic in the influent where the concentration of arsenic is higher than the calculated WQBELs based on the current human health criterion of 0.017 mg/L. Existing dischargers must demonstrate that the influent concentrations of arsenic are higher than the calculated WQBELs and that the concentrations are due to natural background concentrations in surface or ground water sources or the potable water treatment process. This rule will not be applicable to new or expanded discharges.
- N.J.A.C. 7:9B-1.5(i) - Point of Application: NJDEP proposed, but did not adopt, a new point of application policy to allow an alternate point of compliance with the surface water criteria for nitrates, TDS and BDCM where these pollutants are discharged as a byproduct of wastewater treatment processes for ammonia, phosphorus and critical pathogens.

• N.J.A.C. 7:9B-1.11(h) - Procedures for reclassifying specific segments for more restrictive uses: NJDEP proposed, but did not adopt, that existing discharges may continue at the same effluent quality on an upgraded stream classification. This policy provides relief to the dischargers who are improving the water quality by better treatment technologies. Dischargers impacting an upgraded stream on the date of the reclassification of that stream would be subject to effluent limits based on existing effluent quality. This provision will not apply to new or expanding facilities.

• N.J.A.C. 7:9B-1.5(d) - Antidegradation Policies: NJDEP proposed, but did not adopt, to replace the existing antidegradation policies at N.J.A.C. 7:9B-1.5(d). The revised antidegradation policies are intended to reflect the transition to the watershed approach. One of the goals for watershed and water quality management is to maintain water quality that meets or is better than the water quality necessary to protect existing and designated uses, including threatened and endangered species. The antidegradation provisions are intended to protect "high quality waters" from changes in water quality. Where water quality does not meet the SWQS, the Department is required to identify the waterbody on the Water Quality Limited Segments List and develop TMDLs pursuant to the current and proposed provisions at N.J.A.C. 7:15.